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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. 09/849,768

Date: March 28, 2006

Date Filed: 5/4/2001

Examiner: A. Pechhold

Applicant: K. Krueger et al.

Group: 3671

Title: Stormwater Management System

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LETTER WITH SUBMITTAL OF DECLARATION

Commissioner of Patents

Applicants enclose a June 5, 2006 declaration of John Battye, an engineer, in support of the application.

REMARKS

Applicants filed a RCE and asked the examiner to consider their arguments in the amended appeal brief. Applicants now provide the information in the Battye declaration which provides further support to the argument at section 1.2 (page 4) of the amended appeal brief. They will not repeat all their arguments again here.

The Battye declaration compares different continuous curve chamber configurations. It shows how there is an unexpected result obtained for a Truncated Semi-Ellipse (TSE) which is the chamber of the pending claims. The declaration documents that a TSE chamber surprisingly provides a superior result because of its combination of storage capacity (volume/cross sectional area), nesting, and reasonable use of material, of course, along with adequate structural strength.

Compared to other continuous curve chambers, only the TSE and parabola (P) are provide good nesting, which relates to the important cost of shipping.

With reference to Battye's Table 1, while the TSE is 5% disadvantageous to a parabola in (cost of) material parameter for a unit length chamber, when we make the parabola chamber long enough to have the same volume as a TSE chamber, that is, if we add 12% to the length of a parabola, then a given-volume installation uses more material than TSE.

And for any stormwater system installation having a given footprint or area -- thus accommodating only X linear feet of standard-width chamber, the TSE chamber will provide the site with more total storage volume than an alternative continuous curve chamber.

There is no suggestion from the prior art of any particular superiority of one continuous curve over another or of the comparative problem of nesting, or whether amount of material is a consideration. So, there is no teaching in direction of TSE. The inventors have discovered the superiority of the TSE during long development, and it is verified in the analysis reflected by Mr. Battye's declaration.

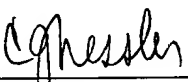
Applicants would hope that this submittal will be persuasive. However, if examiner continues or makes a rejection based on "ordinary skill", they respectfully request that she provide documentary evidence in accord with MPEP 2144.03.

Respectfully submitted,
Kurt J. Kruger et al.

By 
Their Attorney

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 9, 2006


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